

September 7, 2016

## **INDIVIDUAL PRACTICES OF JUDGE ROBERT W. SWEET**

Unless otherwise ordered by Judge Sweet, matters shall be conducted in accordance with the following practices:

### **1. Communications with Chambers**

**A. Letters.** Except as otherwise provided below, communications with chambers shall be by letter, with copies simultaneously delivered to all counsel. Copies of correspondence between counsel shall not be sent to the Court.

**B. Telephone Calls.** In addition to Paragraph 1 (D) below, telephone calls to chambers are permitted. For matter other than docketing, scheduling or calendar matters, call chambers at (212) 805-0254.

**C. Faxes.** Faxes to chambers are permitted only if copies are also simultaneously faxed or delivered to all counsel. No document longer than 10 pages may be faxed without prior authorization. Do not follow with hard copy. The fax number is: (212) 805-7925.

**D. Docketing, Scheduling, and Calendar Matters.** For docketing, scheduling and calendar matters, call Tsz (pronounced "Zee") Chan at (212) 805-0124.

**E. Requests for Adjournments or Extensions of Time.** All requests for adjournments or extensions of time must be in writing and state: (1) the original date; (2) the number of previous requests for adjournment or extension; (3) whether these previous requests were granted or denied; and (4) whether the adversary consents, and, if not, the reasons given by the adversary for refusing to consent. If the requested adjournment or extension affects any other scheduled dates, a proposed Revised Scheduling Order (reflecting only business days) must be attached. If the request is for an adjournment of a court appearance, absent an emergency, it shall be made at least 48 hours prior to the scheduled appearance.

### **2. Motions**

**A. Pre-Motion Conferences in Civil Cases.** Pre-motion conferences are not required.

**B. Courtesy Copies.** One courtesy copy of all motion papers, including electronically-filed motion papers, should be submitted to chambers. Each courtesy copy shall be prominently marked as such.

**C. Documents Not Filed Via ECF.** Whenever any document is submitted to chambers in connection with a motion or other request for relief, but not filed in its entirety on ECF, a digital copy shall be sent to chambers via email at [SweetNYSdChambers@nysd.uscourts.gov](mailto:SweetNYSdChambers@nysd.uscourts.gov). If a redacted version of a document is filed on ECF, an unredacted version shall be emailed to chambers.

**D. Memoranda of Law.** Unless prior permission has been granted, memoranda of law in support of and in opposition to motions are limited to 25 pages, and reply memoranda are limited to 10 pages, with the exception of Bankruptcy Appeals, which will be governed by the Federal Rules of Bankruptcy Procedure. Memoranda of 10 pages or more shall contain a table of contents.

**E. Filing of Motion Papers.** Motion papers shall be filed promptly after service.

**F. Oral Argument on Motions.** Oral argument will be held on all motions, with the exception of: (1) motions for reconsideration or reargument, pursuant to Local Civil Rule 6.3; and (2) motions by or against a party proceeding pro se. Oral argument will be held on a Wednesday at noon through the end of 2015; beginning on January 7, 2016, all oral argument will be held at noon on Thursday. The movant shall note on the face of the motion the date for argument. This date must permit briefing in accordance with Local Civil Rule 6.1 unless pursuant to an order to show cause or otherwise authorized by the Court, or unless related to a Bankruptcy Appeal, which will be governed by the Federal Rules of Bankruptcy Procedure

**G. Orders to Show Cause.** Applications for orders to show cause, provisional remedies, emergency relief, or to proceed in forma pauperis, and orders and notice of settlement of judgments, shall be presented to the Orders and Appeals Clerk. Judgments shall be presented to the Judgment Clerk. These documents will be examined as to form and thereafter transmitted to chambers.

**H. Requests for Default Judgment.** Default Judgment may be sought pursuant to the procedures in Local Civil Rule 55.1 and 55.2 by fully filed motion as set forth in SDNY Electronic Case Filing Rules & Instruction 16.2. Absent good cause shown, Default Judgments should not be sought by Order to Show Cause or by Order absent filing.

### **3. Pretrial Procedures**

**A. Joint Pretrial Orders in Civil Cases.** Unless otherwise ordered by the Court, within 30 days from the date for the completion of discovery in a civil case, the parties shall submit to the Court for its approval a joint pretrial order, which shall include the following:

- i. The full caption of the action.
- ii. The names, addresses (including firm names), and telephone and fax numbers of trial counsel.
- iii. A brief statement by plaintiff as to the basis of subject matter jurisdiction, and a brief statement by each other party as to the presence or absence of subject matter jurisdiction. Such statements shall include citations to all statutes relied on and relevant facts as to citizenship and jurisdictional amount.
- iv. A brief summary by each party of the claims and defenses that party has asserted which remain to be tried, without recital of evidentiary matter but

including citations to all statutes relied on. Such summaries shall identify all claims and defenses previously asserted which are not to be tried.

v. A statement by each party as to whether the case is to be tried with or without a jury, and the number of trial days needed.

vi. A statement as to whether or not all parties have consented to trial of the case by a magistrate judge (without identifying which parties have or have not so consented).

vii. Any stipulations or agreed statements of fact or law which have been agreed to by all parties.

viii. A statement by each party as to the witnesses whose testimony is to be offered in its case in chief, indicating whether such witnesses will testify in person or by deposition.

ix. A designation by each party of deposition testimony to be offered in its case in chief, with any cross-designations and objections by any other party.

x. A list by each party of exhibits to be offered in its case in chief, with one star indicating exhibits to which no party objects on grounds of authenticity, and two stars indicating exhibits to which no party objects on any ground.

**B. Filings Prior to Trial in Civil Cases.** Unless otherwise ordered by the Court, each party shall file, 15 days before the date of commencement of trial if such a date has been fixed, or 30 days after the filing of the final pretrial order if no trial date has been fixed:

i. In jury cases, requests to charge and proposed voir dire questions. Two courtesy copies, marked as such, should be submitted to chambers. Proposed jury charges should also be submitted by e-mail;

ii. In non-jury cases, a statement of the elements of each claim or defense involving such party, together with a summary of the facts relied upon to establish each element;

iii. In all cases, motions addressing any evidentiary or other issue which should be resolved in limine; and

iv. In any case where such party believes it would be useful, a pretrial memorandum.

#### **4. Sentencing Proceedings**

The Court assumes that every document in a sentencing submission, including letters, will be filed in the public record either in paper form or through the ECF system, using the procedures described below. The defendant is responsible for filing all letters submitted on behalf of the defendant, including those from friends, relatives, etc. The Government is responsible for filing all letters from victims.

In this regard, the parties are referred to E-Government Act of 2002 and the Southern District's ECF Privacy Policy ("Privacy Policy") and reminded not, unless necessary, to include the five categories of "sensitive information" in their submissions (i.e., social security numbers, names of minor children [use the initials only], dates of birth [use the year only], financial account numbers, and home addresses [use only the City and State]). Parties may redact the five categories of "sensitive information" and the six categories of information requiring caution (i.e., personal identifying number, medical records, treatment and diagnosis, employment history, individual financial information, proprietary or trade secret information, and information regarding an individual's cooperation with the government) as described in the Privacy Policy, without application to the Court.

If any material is redacted from the publicly filed document, only those pages containing the redacted material will be filed under seal. Bring a copy of those pages to the sentencing proceeding, marked to indicate what information has been redacted from the publicly filed materials, to give to the Court for filing under seal.

**A. Rules for Service and Filing.** A defendant's sentencing submission shall be served two weeks in advance of the date set for sentence. The Government's sentencing submission shall be served one week in advance of the date set for sentence. The parties should provide the Court with one courtesy copy of each submission when it is served. At the time it is served, a party shall file its sentencing submission following one of the two procedures described here. (If the criminal case is a non-ECF case, then only paper filing is allowed.)

i. Paper Filing. If letters are filed as hard copies, a party shall group all letters together in a single paper filing under a cover marked SENTENCING MEMORANDUM with the caption and docket number clearly indicated and submit it to the Clerk's Office.

ii. ECF Filing. If letters are filed electronically, they must be grouped and filed together as attachments to a single document marked SENTENCING MEMORANDUM with the caption and docket number clearly indicated.

**B. Redactions.** If a party redacts information beyond the eleven categories of information identified in the Privacy Policy, an application to do so must be served and filed at the time the sentencing submission is served. The application should clearly identify the redaction and explain the reasons for the redaction. The application will be addressed at the sentencing proceeding.

## **5. Physical Exhibits**

Attorneys must arrange with the Courtroom Deputy Clerk, Tsz Chan, to pick up all physical exhibits (any exhibit other than a PDF document available on ECF) used in the course of a case. Exhibits must be picked up within 30 days after the conclusion of a trial or within 30 days after the Court issues a decision on a hearing or motion. The Court reserves the right to discard any physical exhibits that are not picked up after the allotted 30 days.

If you have any questions about these practices, contact the Courtroom Deputy Clerk, Tsz Chan, (212) 805-0124.